

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:20-cv-00024-M

LARRY DAY,

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC,

Defendant.

ORDER

This matter is before the Court on Defendant's Motion to Dismiss Pursuant to Rule 12(b)(6) [DE-21]. "Where an amended complaint has been filed with leave of court, motions to dismiss earlier complaints are denied as moot. Plaintiff's original complaint is now 'of no legal effect.'" *Parsons v. N. Carolina Dep't of Revenue*, No. 5:18-cv-452-FL, 2019 WL 2181913, at *2 (E.D.N.C. May 20, 2019) (citing *Young v. City of Mount Ranier*, 238 F.3d 567, 573 (4th Cir. 2001)); see also Charles Alan Wright & Arthur R. Miller, 6 Fed. Prac. & Proc. Civ. § 1476 (3d ed. 2020) ("A pleading that has been amended under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified. Once an amended pleading is interposed, the original pleading no longer performs any function in the case") (footnote omitted). Plaintiff was granted leave to file an amended complaint [March 31, 2020 Text Order] which he did on April 21, 2020 [DE-25]. This Amended Complaint supersedes the complaint it modifies and therefore the pending motion to dismiss the earlier complaint [DE-21] is DENIED as moot.

SO ORDERED this the 23^d day of April, 2020.


RICHARD E. MYERS II
U.S. DISTRICT COURT JUDGE